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UNITED STATES GRAND JURY

SOUTHERN DISTRICT OF NEW YORK

- - - - - --x
UNITED STATES OF AMERICA :

-V- : November 8, 2018, Special

STEPHEN M. CALK, :
(2017R00368)
- - - - - x

United States Courthouse
Foley Square
New York, New York

March 4, 2021
3:26 p.m.

A P P E A R A N C E S:

PAUL MONTELEONI
Assistant United States Attorney

BENET KEARNEY
Assistant United States Attorney

HAGAN SCOTTEN
Assistant United States Attorney

JENNIFER MYRIE
Acting Grand Jury Reporter

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947

1 (Colloquy Precedes)

2 (Witness Enters Room)

3 (Time Noted: 3:50 p.m.)

4 JAMES HILLIARD called as a witness, having been duly sworn
5 by the Foreperson of the Grand Jury, was examined
6 and testified as follows:

7 BY MR. MONTELEONI:

8 Q. Good afternoon, Special Agent Hilliard. Do you
9 remember testifying before this grand jury back in 2019
10 about your investigation of an individual named
11 Stephen Calk?

12 A. Yes.

13 Q. During the course of that investigation have you
14 spoken with other people, including other law enforcement
15 agents?

16 A. I have.

17 Q. Have you reviewed reports and documents prepared
18 by others?

19 A. Yes, I have.

20 Q. Will your testimony today, like last time, be
21 based in part on those conversations with other people and
22 documents you reviewed?

23 A. Yes, it will.

24 MR. MONTELEONI. Ladies and gentlemen of the
25 grand jury, some of the testimony you're going to hear from

1 Special Agent Hilliard will include hearsay which means he's
2 not going to testify solely about his own personal
3 observations but will also be testifying about what others
4 have told him and what he has read in reports and documents
5 prepared by people.

6 As you certainly know, hearsay evidence is
7 admissible and proper in these grand jury proceedings. You
8 are permitted to rely on it in determining whether there is
9 probable cause to indict the defendant. But if you want to
10 hear the testimony of any other witnesses, you have a right
11 to request it, and we'll make reasonable efforts to bring
12 that witness before you.

13 BY MR. MONTELEONI:

14 Q. Now Special Agent Hilliard, the last time, do you
15 recall using a slide deck as part of your testimony?

16 A. I do.

17 Q. That slide deck is in evidence already as
18 Grand Jury Exhibit 2, but in front of you should be a copy
19 of a new slide deck marked Grand Jury Exhibit 31 which is
20 also up on the screen.

21 Is this a document that you've reviewed prior to
22 testifying?

23 A. It is.

24 Q. Is that a PowerPoint presentation about the case?

25 A. Yes, it is.

1 Q. Does it contain excerpts of other Grand Jury
2 Exhibits that we're going to be presenting today?

3 A. It does.

4 Q. As well as some slides from the previous slide
5 deck for context?

6 A. Yes.

7 Q. Back when you testified in 2019 was Calk the CEO
8 of the Federal Savings Bank?

9 A. He was.

10 Q. Chairman of its board?

11 A. Yes.

12 Q. CEO of the holding company?

13 A. Yes.

14 Q. Chairman of the holding company's board?

15 A. Yes.

16 Q. Following your testimony was Calk indicted by this
17 grand jury?

18 A. He was.

19 Q. After his indictment did he continue being
20 chairman or CEO of the bank or holding company?

21 A. No.

22 MR. MONTELEONI. Ladies and gentlemen of the
23 grand jury, please don't consider the fact that he's no
24 longer the chairman or CEO of the bank or holding company as
25 a reason to return, or not to return, a superseding

1 indictment against him. We're telling you this as
2 background for the changes in the superseding indictment
3 which is just updating its description of Calk's employment
4 status; not because it's evidence that he committed any of
5 the offenses.

6 BY MR. MONTELEONI:

7 Q. Is Mr. Calk still a majority owner of the bank
8 Special Agent Hilliard?

9 A. He is.

10 Q. Now I want to ask you about something that
11 happened around the time of the 2016 election. For that, I
12 would like to briefly go back to a slide from the previous
13 slide deck describing the phases of the alleged offense.

14 Showing you Slide 2 from Grand Jury Exhibit 31,
15 just taken from the previous slide deck, does this describe
16 the phases of the events?

17 A. It does.

18 Q. One of these phases is a 9.5 million dollar loan
19 phase. The first thing I want to ask you about relates to
20 this 9.5 million dollar loan phase, so I'd like to show you
21 another slide from the previous deck, Slide 3. Could you
22 please read to the grand jury the bullet in blue,
23 summarizing the 9.5 million dollar loan, on Slide 3?

24 A. Sure. Bullet point number 1) Manafort abandons
25 California refinance and instead seeks 9.5 million dollar

1 loan. Bullet point number 2) 9.5 million dollar loan
2 rejected by bank, then approved after Presidential election.
3 Bullet point number 3) Court seeks Manafort's assistance
4 getting a senior administration job through loan officer and
5 directly.

6 Q. Thank you. So drilling down on the Presidential
7 election part of the timeline, I'd like to show you another
8 slide from that first deck, Slide 4, showing that leading up
9 to the Presidential election, and were asked for the
10 9.5 million dollar loan, the bank has rejected that loan and
11 tried to get another bank to extend it.

12 Now, what date is this Presidential election?

13 A. It's November 8, 2016.

14 Q. Turning to Slide 5, which is a new addition to
15 this timeline, can you please read the bulleted item for
16 November 9, 2016?

17 A. Yes. Manafort forwards Calk election night text
18 to son-in-law and real estate lawyer.

19 Q. And drawing your attention to the email that's
20 excerpted here, is that an excerpt of Grand Jury Exhibit 32?

21 A. Yes, it is.

22 Q. Who is the sender of the email?

23 A. Mr. Paul Manafort.

24 Q. Directing your attention to the two Exhibits; is
25 bbaldinger@baldingerlaw.com an email from Bruce Baldinger?

1 A. Yes, it is.

2 Q. Is that Manafort's real estate lawyer?

3 A. Yes, he was.

4 Q. As a real estate lawyer was he going to be
5 involved in closing the 9.5 million dollar loan?

6 A. Yes, he was.

7 Q. Is the other recipient Jeff Yohai, Manafort's
8 son-in-law?

9 A. Yes.

10 Q. Jeff Yohai hoping to get some of his expenses paid
11 from the 9.5 million dollar loan with his father-in-law?

12 A. Yes, he was.

13 Q. Please read the subject line that you have.

14 A. Update.

15 Q. What's the date of this email with the subject
16 "Update"?

17 A. November 9, 2016.

18 Q. What time?

19 A. 9:20:57 a.m.

20 Q. Please read the first line of the email.

21 A. Got this from Steve last night.

22 Q. So when this email says last night, what night
23 would that be?

24 A. That would be the night of November 8, 2016.

25 Q. Election night?

1 A. Yes.

2 Q. After "got this from Steve last night" there are
3 two paragraphs with quotation marks around them. I'm going
4 to read these briefly.

5 It says: Paul, I hope you're having a great night.
6 We should have your approval all wrapped up by tomorrow at
7 12. Enjoy the rest of your evening. I'll speak to you
8 then. Paul, I've got press all day tomorrow. When can we
9 speak to schedule a closing? Do you need me in New York?
10 Ready to support in any way.

11 So directing your attention to those paragraphs,
12 referring back to where it says, we should have your
13 approval all wrapped up by tomorrow at 12, is it fair to say
14 that as of election night Manafort was still waiting for
15 approval of the 9.5 million dollar loan?

16 A. Yes, he was.

17 Q. And where it says, do you need me in New York?
18 I'm ready to support in any way, where was the headquarters
19 of the Trump Presidential Campaign in 2016?

20 A. It was located in New York.

21 Q. Was it in the Trump Tower?

22 A. Yes.

23 Q. An office building in Manhattan?

24 A. Yes, it is.

25 Q. Was that also where the Presidential transition

1 was subsequently --

2 A. Yes, it was.

3 Q. Was this email found from Manafort's son-in-law's
4 account?

5 A. Yes, it was.

6 Q. Did you ever locate the original text through
7 other messages within these quotation marks?

8 A. No, we did not.

9 Q. Turning to Slide 6, directing your attention to
10 this excerpt of Grand Jury Exhibit 33, is this a contact
11 entry found on Calk's phone?

12 A. Yes, it was.

13 Q. What type of application does this contact entry
14 come from?

15 A. WhatsApp application.

16 Q. Is WhatsApp an encrypted messaging system?

17 A. Yes, it is.

18 Q. So does this entry reflect that there was a
19 contact item in the WhatsApp app that was stored on Calk's
20 phone, containing the WhatsApp details for Paul Manafort?

21 A. Yes.

22 Q. Is law enforcement always able to recover WhatsApp
23 messages when it executes a warrant on a phone?

24 A. No we are not.

25 Q. So if Calk and Manafort had exchanged messages

1 with WhatsApp, could law enforcement necessarily have been
2 able to get them?

3 A. No.

4 Q. Just for context, directing your attention to
5 Slide 7, the November 9, 2016 email we just looked at is in
6 blue, is everything in black, after it, the rest of the
7 timeline of the 9.5 million dollar loan phase that we
8 discussed the last time we testified about this
9 investigation?

10 A. Yes, it is.

11 Q. All right. As a reminder, you previously
12 testified about the charges that the Special Council's
13 office brought against Manafort; that testimony is in
14 Grand Jury Exhibit 43. But is it fair to say that among the
15 things he was charged with was fraud against the Federal
16 Savings Bank in connection with his application of these
17 loans?

18 A. Yes, he was.

19 Q. You also testified to the grand jury previously
20 about Manafort proffering with the investigators in some
21 statements he made there; that testimony is also in the
22 transcript Grand Jury Exhibit 43. But is it fair to say
23 that in his proffers Manafort claimed there was no --
24 protocol with Calk?

25 A. Yes, he did.

1 Q. Is it also fair to say that there are a number of
2 facts suggesting that Manafort has made a number of false
3 statements?

4 A. Yes.

5 Q. False statements to government investigators and
6 also committed a number of acts involving deception in his
7 life?

8 A. Yes.

9 Q. Have you told the grand jury everything that you
10 know about this case, or have you merely answered the
11 questions that we've asked?

12 A. Just merely answered the questions.

13 Q. When you testified about conversations that you've
14 had with others or documents you reviewed, did you testify
15 to the exact words or just the substance?

16 A. Just the substance.

17 Q. Willing to return to the grand jury if the grand
18 jurors have any questions for you?

19 A. Absolutely.

20 MR. MONTELEONI. With the Foreperson's permission
21 I'll ask that Special Agent Hilliard be excused.

22 THE FOREPERSON. Sure.

23 WITNESS. Thank you.

24 (Witness Excused)

25 (Time Noted: 4:00 p.m.)

1 (Colloquy Follows)

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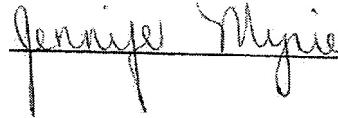
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C E R T I F I C A T E

I hereby certify that the foregoing is a true and accurate transcription, to the best of my skill and ability, from my electronic notes of this proceeding.

March 18, 2021

Date

Jennifer Myrie
Acting Grand Jury Reporter
Free State Reporting, Inc.